Federal Court  Cour fédérale

Date: 20211117

Docket: IMM-1361-20

Citation: 2021 FC 1252

Ottawa, Ontario, November 17, 2021

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

DEORANIE PERSAUD AND ARIANNA REAH BHAGWANDIN

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is the judicial review of a decision of an officer [Officer] with Immigration, Refugees and Citizenship Canada refusing to grant a temporary resident visa [TRV] to a mother and her daughter, both citizens of Guyana. The decision was made on the basis that the Applicants would not leave Canada at the end of their stay.

[2] For purposes of this judicial review, the two Applicants are treated as one. The Officer's decision is entirely focused on the adult mother's circumstances. Despite the Applicant's further submissions, there are no relevant issues related to the best interests of child.

II. Background

[3] The Applicant mother applied to visit her boyfriend, the child's father, for one week in Niagara Falls. The boyfriend is a permanent resident of Canada.

Two previous TRV applications have been denied.

[4] The Global Case Management System [GCMS] Notes state "… not satisfied with strong pull factor to Cda PA has demonstrated sufficient ties to Guy to compel their return. PA has travelled to US in the past and remained 6mths demonstrating an ability to remain outside of Guy …".

[5] The Officer's refusal letter states that the Officer was not satisfied the Applicant would leave Canada at the end of the proposed stay based on:

- travel history;
- family ties in Canada and in the country of residence;
- purpose of the visit;
- current employment situation; and
- personal assets and financial status.

III. Analysis

[6] As made clear in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the standard of review is reasonableness in the context of a deferential but robust form of review. The Court is to look at the reasoning, the process and outcomes. There must be an internally consistent and rational chain of analysis and the decision must be justified in relation to the facts and law relevant to the matter.

[7] While there is a presumption that a decision maker has reviewed all the evidence, it is a rebuttable presumption - especially in circumstances of cursory or conclusionary reasons.

[8] This Court, consistent with *Vavilov*, has recognized that decisions of this type do not have to be extensive and that where a record is clear, the Court can "connect the dots on the page where the lines and direction are headed may be readily drawn": see *Vavilov* at paras 97, 102, citing *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 and *Komalafe v Canada (Minister of Citizenship and Immigration)*, 2013 FC 431 at para 11. The reasons need not be extensive but there must be a rationale or a line to the rationale.

[9] In summary, the Officer seems to have found that the Applicant was prepared to abandon her job in Guyana, her widowed father and her friends in Guyana in favour of her Canadian resident boyfriend. However, the Officer does not explain why she reached that conclusion.

[10] The refusal letter cites conclusions without explaining the reasons. Simply stating that the Applicant's travel history or her current employment or the purpose of the visit lead to the conclusion that the Applicant will overstay her visit without explaining why those circumstances lead to the conclusion is not sufficient. For example, it is not obvious why the Applicant's travel history – which shows no overstays or immigration difficulties – would lead to a negative conclusion. The same can be said for each of the factors listed in the refusal letter. The GCMS Notes do not add any clarity.

[11] I am not satisfied that there is the necessary rational connection between the Officer's conclusions and the GCMS Notes and refusal letter.

IV. Conclusion

[12] For these reasons, this application must be granted. The Officer should have issued the TRV. However, that remedy is of little practical effect since the period of the trip has passed. The Applicant is entitled to file a new TRV application, which is not to be decided by either the Officer on this file or any of the officers who denied the Applicant's previous TRV applications. In addition, the previous denials are not to be considered relevant to any subsequent TRV filed by the Applicant.

[13] There is no question for certification.

JUDGMENT in IMM-1361-20

THIS COURT'S JUDGMENT is that the application for judicial review is granted. The Applicant is entitled to file a new TRV application and in that event, such application is not to be decided by either the Officer on this file or any of the officers who denied the Applicant's previous TRV applications nor are such denials to be considered relevant to any subsequent TRV filed by the Applicant. There is no question for certification.

"Michael L. Phelan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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